

REFERENCE TITLE: motion picture tax incentives

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2611

Introduced by
Representatives Weiers J: Antenori, Weiers JP

AN ACT

REPEALING SECTIONS 41-1517 AND 41-1517.01, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 3, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3019.01; AMENDING SECTIONS 42-2003, 42-5009, 43-1075, 43-1075.01, 43-1163 AND 43-1163.01, ARIZONA REVISED STATUTES; RELATING TO MOTION PICTURE TAX INCENTIVES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Sections 41-1517 and 41-1517.01, Arizona Revised Statutes, are
4 repealed.

5 Sec. 2. Title 41, chapter 3, Arizona Revised Statutes, is amended by
6 adding article 3, to read:

7 ARTICLE 3. ARIZONA FILM OFFICE ADVISORY COUNCIL

8 41-531. Definitions

9 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

10 1. "COMMERCIAL ADVERTISEMENT" MEANS AN ADVERTISING MESSAGE DESIGNED
11 FOR DELIVERY THROUGH EITHER:

12 (a) A MOTION PICTURE FILM OR VIDEO MEDIUM TO ATTRACT THE ATTENTION OF
13 CONSUMERS OR INFLUENCE CONSUMERS' FEELINGS TOWARD A PARTICULAR PRODUCT,
14 SERVICE, EVENT OR CAUSE.

15 (b) STILL PHOTOGRAPHY THAT IS USED IN NATIONAL OR INTERNATIONAL PRINT
16 MEDIA TO ATTRACT THE ATTENTION OF CONSUMERS OR INFLUENCE CONSUMERS' FEELINGS
17 TOWARD A PARTICULAR PRODUCT, SERVICE, EVENT OR CAUSE.

18 2. "COUNCIL" MEANS THE ARIZONA FILM OFFICE ADVISORY COUNCIL.

19 3. "MOTION PICTURE":

20 (a) MEANS A SINGLE MEDIUM OR MULTIMEDIA PROGRAM, INCLUDING A
21 COMMERCIAL ADVERTISEMENT, MUSIC VIDEO OR TELEVISION SERIES, THAT:

22 (i) MAY INCLUDE FILM, MAGNETIC TAPE OR DIGITAL MEDIA AND STILL
23 PHOTOGRAPHY IMAGES.

24 (ii) IS CREATED BY PRODUCTION ACTIVITIES CONDUCTED IN WHOLE OR IN PART
25 IN THIS STATE.

26 (iii) CAN BE VIEWED OR REPRODUCED.

27 (iv) IS INTENDED FOR COMMERCIAL DISTRIBUTION OR LICENSING IN THE
28 DELIVERY MEDIUM USED.

29 (b) DOES NOT INCLUDE ANY PRODUCTION FEATURING ACTUAL NEWS, CURRENT
30 EVENTS, WEATHER, LOCALLY PRODUCED AND LOCALLY BROADCAST TELEVISION
31 PRODUCTIONS, FINANCIAL MARKET REPORTS, CONCERTS, INTERNET BROADCASTS, TALK
32 SHOWS AND INTERVIEWS, GAME SHOWS, SPORTING EVENTS, AWARD OR OTHER GALA
33 EVENTS, A PRODUCTION WHOSE SOLE PURPOSE IS FUND-RAISING, A PRODUCTION USED
34 FOR CORPORATE OR ORGANIZATIONAL TRAINING OR IN-HOUSE CORPORATE ADVERTISING OR
35 OTHER SIMILAR PRODUCTION ACTIVITIES.

36 4. "MOTION PICTURE PRODUCTION COMPANY" OR "PRODUCTION COMPANY" MEANS
37 ANY PERSON THAT IS PRIMARILY ENGAGED IN THE BUSINESS OF PRODUCING MOTION
38 PICTURES AND THAT HAS A PHYSICAL BUSINESS OFFICE AND BANK ACCOUNT IN THIS
39 STATE.

40 41-532. Arizona film office advisory council

41 A. THE ARIZONA FILM OFFICE ADVISORY COUNCIL IS ESTABLISHED IN THE
42 OFFICE OF THE GOVERNOR CONSISTING OF THE FOLLOWING MEMBERS WHO ARE APPOINTED
43 BY THE GOVERNOR:

1 1. FOUR MEMBERS WHO ARE ASSOCIATED WITH BROAD AREAS OF FILM, DIGITAL
2 MEDIA AND MOTION PICTURE MAKING, PRODUCTION OF TELEVISION PROGRAMS AND
3 COMMERCIAL ADVERTISEMENTS, AND RELATED INDUSTRIES IN THIS STATE.

4 2. ONE MEMBER WHO IS FROM A FILM, TELEVISION, DIGITAL MEDIA OR RELATED
5 INDUSTRY UNION.

6 3. ONE MEMBER WHO REPRESENTS LOCAL FILM OFFICES OR LOCAL UNITS OF
7 GOVERNMENT.

8 4. ONE MEMBER WHO IS APPOINTED FROM A LIST OF THREE OR MORE NOMINEES
9 SUBMITTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

10 5. ONE MEMBER WHO IS APPOINTED FROM A LIST OF THREE OR MORE NOMINEES
11 SUBMITTED BY THE PRESIDENT OF THE SENATE.

12 6. TWO RESIDENTS OF THIS STATE WHO ARE NOT ACTIVE IN FILM, TELEVISION,
13 DIGITAL MEDIA OR RELATED INDUSTRIES.

14 B. THE TERM OF OFFICE OF EACH MEMBER OF THE COUNCIL IS FOUR YEARS,
15 EXCEPT THAT:

16 1. OF THE INITIAL MEMBERS OF THE COUNCIL, THE GOVERNOR SHALL APPOINT:

17 (a) THREE MEMBERS TO TERMS EXPIRING ON SEPTEMBER 30, 2011.

18 (b) THREE MEMBERS TO TERMS EXPIRING ON SEPTEMBER 30, 2012.

19 (c) TWO MEMBERS TO TERMS EXPIRING ON SEPTEMBER 30, 2013.

20 (d) TWO MEMBERS TO TERMS EXPIRING ON SEPTEMBER 30, 2014.

21 2. IF A VACANCY OCCURS ON THE COUNCIL OTHER THAN BY EXPIRATION OF A
22 TERM, THE VACANCY SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL
23 APPOINTMENT FOR THE REMAINDER OF THE UNEXPIRED TERM.

24 C. THE GOVERNOR SHALL DESIGNATE ONE MEMBER OF THE COUNCIL TO SERVE AS
25 CHAIRPERSON AT THE PLEASURE OF THE GOVERNOR. THE MEMBERS OF THE COUNCIL MAY
26 ELECT A VICE-CHAIRPERSON AND ADDITIONAL OFFICERS AS THE COUNCIL CONSIDERS
27 APPROPRIATE. THE COUNCIL SHALL MEET AT LEAST THREE TIMES PER FISCAL YEAR AND
28 AT ADDITIONAL TIMES AT THE CALL OF THE CHAIRPERSON.

29 D. MEMBERS OF THE COUNCIL:

30 1. SERVE WITHOUT COMPENSATION BUT, SUBJECT TO APPROPRIATION, MAY
31 RECEIVE REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES AS PROVIDED BY TITLE
32 38, CHAPTER 4, ARTICLE 2.

33 2. ARE SUBJECT TO TITLE 38, CHAPTER 3, ARTICLE 8, RELATING TO
34 CONFLICTS OF INTEREST, INCLUDING THE PENALTIES PRESCRIBED BY SECTION 38-510.

35 E. SUBJECT TO ANNUAL LEGISLATIVE AUTHORIZATION, THE AMOUNT OF THREE
36 HUNDRED THIRTY SEVEN THOUSAND SEVEN HUNDRED DOLLARS FROM THE DOLLAR AMOUNT OF
37 INCOME TAX CREDITS UNDER SECTION 41-533, SUBSECTION J IS ALLOCATED EACH YEAR
38 TO THE COUNCIL FOR UP TO SIX FULL-TIME EQUIVALENT POSITIONS DEDICATED SOLELY
39 FOR THE PURPOSES OF THIS ARTICLE. IF THE INCOME TAX CREDITS TERMINATE
40 PURSUANT TO SECTION 41-533, SUBSECTION A OR SECTION 41-534, SUBSECTION A, THE
41 AUTHORIZATION UNDER THIS SUBSECTION AND ANY POSITIONS DEDICATED FOR THOSE
42 PURPOSES ALSO TERMINATE. THE DEPARTMENT OF COMMERCE SHALL PROVIDE ADDITIONAL
43 STAFF SUPPORT TO THE COUNCIL.

44 F. IN ADDITION TO THE OTHER REQUIREMENTS PRESCRIBED BY THIS ARTICLE,
45 THE COUNCIL MAY:

1 1. ADVISE THE GOVERNOR AND THE LEGISLATURE ON HOW TO PROMOTE AND
2 MARKET THIS STATE'S LOCATIONS, CREWS, FACILITIES AND TECHNICAL PRODUCTION
3 FACILITIES AND OTHER SERVICES USED BY FILM, TELEVISION, DIGITAL MEDIA AND
4 RELATED INDUSTRIES.

5 2. ENCOURAGE COMMUNITY AND STATE FILM, DIGITAL MEDIA AND TELEVISION
6 PRODUCTION INDUSTRY PARTICIPATION IN, AND COORDINATION WITH, STATE EFFORTS TO
7 ATTRACT FILM, DIGITAL MEDIA, TELEVISION AND RELATED PRODUCTION TO THIS STATE.

8 3. ASSIST IN PROMOTING, ENCOURAGING AND FACILITATING FILM, DIGITAL
9 MEDIA, TELEVISION AND RELATED PRODUCTION IN THIS STATE.

10 4. DEVELOP STRATEGIES AND METHODS TO ATTRACT FILM, DIGITAL MEDIA,
11 TELEVISION AND RELATED BUSINESS TO THIS STATE.

12 5. ASSIST FILM, DIGITAL MEDIA, TELEVISION AND RELATED SERVICE
13 PERSONNEL WHO USE THIS STATE AS A BUSINESS LOCATION.

14 6. SPONSOR AND SUPPORT OFFICIAL FUNCTIONS FOR FILM, DIGITAL MEDIA,
15 TELEVISION AND RELATED INDUSTRIES.

16 7. ASSIST IN ESTABLISHING FILM, DIGITAL MEDIA AND TELEVISION VENTURES
17 AND APPROPRIATE RELATED MATTERS.

18 8. MAKE INQUIRIES, STUDIES AND INVESTIGATIONS, HOLD HEARINGS AND
19 RECEIVE COMMENTS FROM THE PUBLIC. THE COUNCIL MAY ALSO CONSULT WITH OUTSIDE
20 EXPERTS IN ORDER TO PERFORM ITS DUTIES, INCLUDING EXPERTS IN THE PRIVATE
21 SECTOR, ORGANIZED LABOR, GOVERNMENT AGENCIES AND INSTITUTIONS OF HIGHER
22 EDUCATION.

23 9. PROVIDE OTHER ASSISTANCE OR ADVICE RELATING TO THE DUTIES OF THE
24 COUNCIL UNDER THIS ARTICLE AS REQUESTED BY THE GOVERNOR.

25 G. DOCUMENTS IN THE POSSESSION OF THE COUNCIL ARE SUBJECT TO TITLE 39,
26 CHAPTER 1, RELATING TO PUBLIC RECORDS, EXCEPT THAT A DOCUMENT MAY BE KEPT
27 CONFIDENTIAL FOR UP TO SIX MONTHS AFTER THE DATE A REQUEST TO INSPECT OR COPY
28 THE DOCUMENT IS RECEIVED IF, IN THE CHAIRPERSON'S JUDGMENT, DISCLOSURE WOULD
29 COMPROMISE OR OTHERWISE UNDERMINE THE COMPETITIVE POSITION OF THIS STATE TO
30 PROMOTE AND MARKET ITS LOCATIONS, CREWS, FACILITIES, TECHNICAL PRODUCTION AND
31 OTHER SERVICES.

32 H. NOT LATER THAN APRIL 30 OF EACH YEAR, THE COUNCIL SHALL PREPARE AND
33 PUBLISH A REPORT SUMMARIZING THE INFORMATION COLLECTED PURSUANT TO THIS
34 ARTICLE. THE COUNCIL SHALL MAKE COPIES OF THE ANNUAL REPORT AVAILABLE TO THE
35 PUBLIC ON REQUEST.

36 I. THE COUNCIL, WITH THE COOPERATION OF THE DEPARTMENT OF REVENUE,
37 SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY
38 TO EFFECTUATE THE PURPOSES OF SECTIONS 41-533 AND 41-534.

39 41-533. Motion picture production tax incentives; definitions

40 A. THROUGH DECEMBER 31, 2025, THE ARIZONA FILM OFFICE ADVISORY COUNCIL
41 SHALL QUALIFY MOTION PICTURE PRODUCTION COMPANIES THAT PRODUCE ONE OR MORE
42 MOTION PICTURES IN THIS STATE FOR MOTION PICTURE PRODUCTION TAX INCENTIVES,
43 SUBJECT TO THE FOLLOWING REQUIREMENTS AND CONDITIONS:

1 1. EXCEPT AS PROVIDED IN SUBSECTION K OF THIS SECTION, A MOTION
2 PICTURE PRODUCTION COMPANY MUST SPEND AT LEAST TWO HUNDRED FIFTY THOUSAND
3 DOLLARS TOWARD PRODUCTION COSTS IN THIS STATE PRODUCING EACH MOTION PICTURE.

4 2. FOR THE PURPOSE OF THIS SECTION, PRODUCTION COSTS ARE LIMITED TO
5 AND SUBJECT TO THE FOLLOWING CONDITIONS:

6 (a) SALARIES AND OTHER COMPENSATION FOR TALENT, MANAGEMENT AND LABOR
7 PAID TO RESIDENTS OF THIS STATE, AS DEFINED BY SECTION 43-104.

8 (b) A STORY AND SCENARIO TO BE USED FOR A MOTION PICTURE.

9 (c) SET CONSTRUCTION AND OPERATIONS, WARDROBE, PROPS, ACCESSORIES AND
10 RELATED SERVICES IN THIS STATE. EXPENSES PAID FOR CONSTRUCTION CONTRACTS ARE
11 LIMITED TO CONTRACTORS WHO ARE LICENSED UNDER TITLE 32, CHAPTER 10.

12 (d) PHOTOGRAPHY, SOUND SYNCHRONIZATION, LIGHTING AND RELATED COSTS
13 INCURRED IN THIS STATE.

14 (e) EDITING AND RELATED SERVICES PERFORMED IN THIS STATE.

15 (f) RENTAL OF FACILITIES AND EQUIPMENT IN THIS STATE.

16 (g) CATERED FOOD, DRINK AND CONDIMENT PURCHASED IN THIS STATE.

17 (h) OTHER DIRECT IN-STATE COSTS OF PRODUCING THE MOTION PICTURE,
18 PURSUANT TO RULES ADOPTED BY THE DEPARTMENT OF REVENUE THAT FOLLOW GENERALLY
19 ACCEPTED ACCOUNTING STANDARDS FOR THE MOTION PICTURE INDUSTRY.

20 (i) PAYMENTS FOR PENALTIES AND FINES DO NOT QUALIFY AS PRODUCTION
21 COSTS.

22 (j) EXPENSES INCURRED BEFORE THE DATE OF NOTICE OF PREAPPROVAL UNDER
23 SUBSECTION D OF THIS SECTION DO NOT QUALIFY AS PRODUCTION COSTS.

24 3. AT LEAST TWENTY-FIVE PER CENT OF FULL-TIME EMPLOYEES OF A MOTION
25 PICTURE PRODUCTION COMPANY OR ITS AUTHORIZED PAYROLL SERVICE COMPANY WORKING
26 IN THIS STATE IN ITS PRODUCTION ACTIVITIES MUST BE RESIDENTS OF THIS STATE.

27 4. A MOTION PICTURE PRODUCTION COMPANY MUST SUBMIT A COMPLETED
28 APPLICATION PURSUANT TO SUBSECTION C OF THIS SECTION. AN APPLICATION IS
29 COMPLETE ON RECEIPT OF ALL REQUESTED INFORMATION.

30 5. A MOTION PICTURE PRODUCTION COMPANY MUST INCLUDE IN THE CREDITS FOR
31 EACH MOTION PICTURE, OTHER THAN A COMMERCIAL ADVERTISEMENT OR MUSIC VIDEO, AN
32 ACKNOWLEDGEMENT THAT THE PRODUCTION WAS FILMED IN ARIZONA.

33 B. ONLY A MOTION PICTURE PRODUCTION COMPANY THAT DEMONSTRATES THAT IT
34 HAS THE LAWFUL RIGHT TO PRODUCE A PARTICULAR PRODUCTION MAY APPLY FOR
35 QUALIFICATION UNDER THIS SECTION WITH RESPECT TO THAT PRODUCTION.

36 C. A MOTION PICTURE PRODUCTION COMPANY INITIALLY APPLYING FOR
37 QUALIFICATION UNDER THIS SECTION MUST REPORT THE FOLLOWING TO THE COUNCIL ON
38 A FORM AND IN A MANNER PRESCRIBED BY THE COUNCIL, WITH THE COOPERATION OF THE
39 DEPARTMENT OF REVENUE:

40 1. THE NAME, ADDRESS, TELEPHONE NUMBER AND WEBSITE OF THE MOTION
41 PICTURE PRODUCTION COMPANY.

42 2. THE NAME AND ADDRESS OF AN INDIVIDUAL WHO WILL MAINTAIN RECORDS OF
43 EXPENDITURES IN THIS STATE.

44 3. THE PROJECTED FIRST PREPRODUCTION DATE AND LAST PRODUCTION DATE IN
45 THIS STATE.

1 4. THE PRODUCTION OFFICE ADDRESS AND OFFICE TELEPHONE NUMBER IN THIS
2 STATE.

3 5. THE ESTIMATED TOTAL BUDGET OF THE PRODUCTION.

4 6. THE ESTIMATED TOTAL EXPENDITURES IN THIS STATE.

5 7. THE ESTIMATED TOTAL PERCENTAGE OF THE PRODUCTION TAKING PLACE IN
6 THIS STATE.

7 8. THE ESTIMATED LEVEL OF EMPLOYMENT OF RESIDENTS OF THIS STATE IN THE
8 CAST AND CREW.

9 9. A SCRIPT, INCLUDING A SYNOPSIS, THE PROPOSED DIRECTOR AND A
10 PRELIMINARY LIST OF THE CAST AND PRODUCER, EXCEPT THAT, WITH RESPECT TO A
11 TELEVISION SERIES, OTHER THAN A PILOT PRODUCTION, IN LIEU OF A SCRIPT THE
12 APPLICANT MUST INCLUDE:

13 (a) A SYNOPSIS OF THE GENERAL NATURE OF THE SERIES.

14 (b) A DESCRIPTION OF THE CHARACTERS AND THE INTENDED NATURE OF THEIR
15 INTERACTION WITH EACH OTHER.

16 (c) A DESCRIPTION OF THE LOCATIONS.

17 (d) A DESCRIPTION OF THE SETS.

18 (e) THE INTENDED DISTRIBUTION OR BROADCAST MEDIUM WITH SPECIFIC
19 TELEVISION CHANNELS, IF KNOWN.

20 10. AN AFFIRMATION SIGNED BY ANY PERSON WHO WILL BE CREDITED ON SCREEN
21 AS THE PRODUCER OR PRODUCERS OF THE MOTION PICTURE, NOT INCLUDING THE
22 EXECUTIVE PRODUCERS, ASSOCIATE PRODUCERS, ASSISTANT PRODUCERS OR LINE
23 PRODUCERS, THAT:

24 (a) THE MOTION PICTURE PRODUCTION COMPANY AGREES TO FURNISH RECORDS OF
25 EXPENDITURES IN THIS STATE TO THE DEPARTMENT OF REVENUE ON REQUEST.

26 (b) ANY ITEMS PURCHASED WITH A CERTIFICATE ISSUED UNDER SECTION
27 42-5009, SUBSECTION H ARE INTENDED FOR USE BY THE APPLICANT DIRECTLY IN
28 MOTION PICTURE PRODUCTION.

29 D. THE COUNCIL SHALL REVIEW ALL APPLICATIONS WITHIN THIRTY DAYS AFTER
30 SUBMISSION OF A COMPLETE APPLICATION PURSUANT TO SUBSECTION C OF THIS SECTION
31 TO DETERMINE WHETHER THE MOTION PICTURE PRODUCTION COMPANY SATISFIES ALL OF
32 THE CRITERIA PROVIDED IN SUBSECTION A OF THIS SECTION AND SHALL ESTABLISH THE
33 PROCESS BY WHICH THE COUNCIL QUALIFIES AND PREAPPROVES A COMPANY FOR MOTION
34 PICTURE PRODUCTION TAX INCENTIVES. THIS PROCESS SHALL PREAPPROVE A COMPANY
35 FOR MOTION PICTURE PRODUCTION TAX INCENTIVES BASED ON PRIORITY PLACEMENT
36 ESTABLISHED BY THE DATE THAT THE MOTION PICTURE PRODUCTION COMPANY FILED ITS
37 INITIAL APPLICATION FOR QUALIFICATION WITH THE COUNCIL.

38 E. THE COUNCIL MAY CONDUCT A SITE VISIT TO VERIFY THAT PRODUCTION HAS
39 BEGUN. WITHIN NINETY DAYS AFTER THE COMPANY'S INITIAL APPLICATION IS
40 PREAPPROVED, THE COMPANY MUST SUBMIT NOTICE TO THE COUNCIL THAT PRODUCTION
41 HAS BEGUN AND PROVIDE AT LEAST ONE OF THE FOLLOWING:

42 1. A COPY OF A CONTRACT, LOAN OUT AGREEMENT OR DEAL MEMO WITH A
43 CAMERAMAN AND CREW.

44 2. A COPY OF THE CREW CALL SHEET FOR THE FIRST DAY OF PRODUCTION.

1 3. EVIDENCE THAT RESIDENTS OF THIS STATE HAVE BEEN PAID A TOTAL OF AT
2 LEAST FIVE THOUSAND DOLLARS FOR WORK ON THE PREAPPROVED MOTION PICTURE.

3 4. A COPY OF A CONTRACT OR AGREEMENT DIRECTLY ATTRIBUTABLE TO THE
4 PREAPPROVED MOTION PICTURE.

5 F. PREAPPROVAL BY THE COUNCIL UNDER SUBSECTION D OF THIS SECTION
6 LAPSES, THE APPLICATION IS VOID AND THE AMOUNT OF THE PREAPPROVED INCENTIVES
7 DOES NOT APPLY AGAINST THE DOLLAR LIMIT PRESCRIBED BY SUBSECTION J OF THIS
8 SECTION IF, WITHIN NINETY DAYS AFTER THE COUNCIL PREAPPROVES THE COMPANY, THE
9 COMPANY FAILS TO PROVIDE DOCUMENTATION OF EITHER:

10 1. ITS EXPENDITURE IN THIS STATE OF THE LESSER OF:

11 (a) TEN PER CENT OF THE ESTIMATED TOTAL STATE BUDGET OF THE
12 PRODUCTION.

13 (b) TWO HUNDRED FIFTY THOUSAND DOLLARS.

14 2. A COMPLETION BOND, EQUAL TO THE ESTIMATED TOTAL BUDGET OF THE
15 PRODUCTION, FOR THE PRODUCTION OF THE MOTION PICTURE FOR WHICH THE COMPANY
16 WAS PREAPPROVED. FOR THE PURPOSES OF THIS PARAGRAPH, "COMPLETION BOND" MEANS
17 AN EXECUTED WRITTEN CONTRACT, ISSUED BY AN INSURANCE COMPANY WITH AN
18 INSURANCE INDUSTRY RATING OF B+ OR BETTER BY A.M. BEST COMPANY GUARANTYING TO
19 THE FINANCIERS OF THE PROJECT THAT IT WILL BE COMPLETED ACCORDING TO THE
20 TERMS OF THE PREAPPROVED APPLICATION SUBMITTED BY THE PRODUCTION COMPANY IN
21 ITS APPLICATION.

22 G. THE PREAPPROVED AMOUNT APPLIES AGAINST THE DOLLAR LIMIT PRESCRIBED
23 BY SUBSECTION J OF THIS SECTION FOR THE YEAR IN WHICH THE APPLICATION WAS
24 SUBMITTED REGARDLESS OF WHETHER THE INITIAL PREAPPROVAL PERIOD EXTENDS INTO
25 THE FOLLOWING YEAR OR YEARS. BEFORE THE EXPIRATION OF THE INITIAL
26 PREAPPROVAL OR REQUALIFICATION PERIOD, A COMPANY MAY VOLUNTARILY RELINQUISH
27 UNUSED CREDIT AMOUNTS.

28 H. THE COUNCIL SHALL REALLOCATE THE AMOUNT OF CREDITS THAT IS
29 VOLUNTARILY RELINQUISHED UNDER SUBSECTION G OF THIS SECTION, THAT LAPSES
30 UNDER SUBSECTION F OF THIS SECTION OR THAT LAPSES UNDER SUBSECTION O OF THIS
31 SECTION. THE REALLOCATION SHALL BE TO OTHER MOTION PICTURE PRODUCTION
32 COMPANIES THAT APPLIED IN THE ORIGINAL CREDIT YEAR BASED ON PRIORITY
33 PLACEMENT. THE AMOUNT OF THE REALLOCATED CREDITS SHALL CONTINUE TO APPLY
34 AGAINST THE DOLLAR LIMIT OF THE ORIGINAL CREDIT YEAR REGARDLESS OF THE YEAR
35 IN WHICH THE REALLOCATION OCCURS. IF FOR ANY YEAR AN UNUSED BALANCE OCCURS
36 IN THE INCOME TAX CREDITS AUTHORIZED UNDER THE DOLLAR LIMIT PRESCRIBED BY
37 SUBSECTION J OF THIS SECTION:

38 1. THE BALANCE SHALL BE ALLOCATED TO MOTION PICTURE PRODUCTION
39 COMPANIES THAT SUCCESSFULLY APPEAL THE DENIAL OF APPROVAL UNDER THIS SECTION
40 OR SECTION 41-534. ANY AMOUNT OF INCOME TAX CREDITS DUE TO SUCCESSFUL
41 APPEALS THAT ARE NOT PAID FROM AN UNUSED BALANCE IN ANY YEAR SHALL BE PAID
42 AGAINST THE DOLLAR LIMIT ALLOWED BY SUBSECTION J OF THIS SECTION IN THE
43 FOLLOWING YEAR.

44 2. ANY REMAINING UNUSED BALANCE SHALL BE REALLOCATED FOR THE PURPOSES
45 OF THIS SECTION IN THE FOLLOWING YEAR.

1 I. AN APPROVED CREDIT OFFSETS TAX LIABILITY FOR THE TAXABLE YEAR FOR
2 WHICH THE CREDIT WAS ORIGINALLY ALLOCATED OR ANY SUBSEQUENT TAXABLE YEAR
3 WITHIN THE APPLICABLE CARRYFORWARD PERIOD PURSUANT TO SECTION 43-1075,
4 SUBSECTION G OR SECTION 43-1163, SUBSECTION G. THE CREDITS MUST BE CLAIMED
5 ON A TIMELY FILED ORIGINAL INCOME TAX RETURN, INCLUDING EXTENSIONS.

6 J. SUBJECT TO THE REQUIREMENTS OF SECTION 41-532, SUBSECTION E,
7 SECTION 41-534 AND SUBSECTION K OF THIS SECTION, THE COUNCIL SHALL NOT
8 PREAPPROVE INCOME TAX CREDITS EXCEEDING A TOTAL OF:

9 1. FROM AND AFTER DECEMBER 31, 2008, ONE HUNDRED MILLION DOLLARS FOR A
10 SINGLE YEAR.

11 2. FROM AND AFTER DECEMBER 31, 2009, NINE MILLION DOLLARS FOR AN
12 INDIVIDUAL MOTION PICTURE APPLICATION.

13 K. THE FOLLOWING PROVISIONS APPLY WITH RESPECT TO COMMERCIAL
14 ADVERTISEMENT AND MUSIC VIDEO PRODUCTION:

15 1. FIVE PER CENT OF THE MAXIMUM DOLLAR AMOUNT OF INCOME TAX CREDITS
16 PRESCRIBED FOR ANY YEAR BY SUBSECTION J OF THIS SECTION IS RESERVED FOR USE
17 WITH RESPECT TO COMMERCIAL ADVERTISEMENT AND MUSIC VIDEO PRODUCTION.

18 2. A COMMERCIAL ADVERTISEMENT OR MUSIC VIDEO PRODUCTION COMPANY MAY
19 APPLY FOR QUALIFICATION UNDER SUBSECTION C OF THIS SECTION BEFORE THE COMPANY
20 REACHES THE MINIMUM EXPENDITURE THRESHOLD REQUIREMENTS OF SUBSECTION A,
21 PARAGRAPH 1 OF THIS SECTION.

22 3. IN LIEU OF A SCRIPT UNDER SUBSECTION C, PARAGRAPH 9 OF THIS
23 SECTION, THE APPLICANT MUST SUBMIT A SYNOPSIS OR STORYBOARD THAT:

24 (a) IDENTIFIES THE PRODUCT, SERVICE, PERSON OR EVENT FOR A COMMERCIAL
25 ADVERTISEMENT OR THE ARTIST AND SONG FOR A MUSIC VIDEO.

26 (b) DESCRIBES THE GENERAL CONTENT OR MESSAGE TO BE CONVEYED.

27 (c) DESCRIBES THE LOCATION OR LOCATIONS.

28 (d) DESCRIBES THE SETS.

29 (e) DESCRIBES THE INTENDED DISTRIBUTION OR MEDIUM AND SPECIFIC
30 CHANNELS, IF KNOWN.

31 4. THE COUNCIL MUST REVIEW THE COMPLETED APPLICATION WITHIN FIFTEEN
32 BUSINESS DAYS.

33 5. EXPENSES INCURRED BEFORE THE DATE OF SUBMISSION OF A COMPLETED
34 APPLICATION UNDER SUBSECTION C OF THIS SECTION DO NOT QUALIFY AS PRODUCTION
35 COSTS.

36 6. THE COUNCIL SHALL ALLOCATE THE INCOME TAX CREDIT INCENTIVES BASED
37 ON PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE COMPANY FILES ITS
38 APPLICATION AND BASED ON THE PERCENTAGE OF ESTIMATED TOTAL EXPENDITURES IN
39 THIS STATE ALLOWED AS A CREDIT UNDER SECTION 43-1075 OR 43-1163.

40 7. WITHIN SIXTY DAYS AFTER APPLYING UNDER SUBSECTION C OF THIS
41 SECTION, A COMPANY THAT IS PREAPPROVED FOR A SPECIFIC PRODUCTION MUST NOTIFY
42 AND PROVIDE DOCUMENTATION OF EXPENDITURES TO THE COUNCIL OF THE TOTAL AMOUNT
43 OF ELIGIBLE PRODUCTION COSTS ASSOCIATED WITH THE PRODUCTION.

44 8. THE COMPANY IS NOT ELIGIBLE FOR INCOME TAX CREDIT INCENTIVES UNTIL
45 THE COMPANY'S ELIGIBLE PRODUCTION EXPENDITURES REACH TWO HUNDRED FIFTY

THOUSAND DOLLARS IN A PERIOD OF TWELVE CONSECUTIVE MONTHS. WHEN THE COMPANY REACHES THAT THRESHOLD, THE COMPANY MAY APPLY TO THE COUNCIL FOR APPROVAL OF THE INCOME TAX CREDIT INCENTIVES PURSUANT TO SUBSECTION O OF THIS SECTION. APPLICATIONS FOR APPROVAL OF INCOME TAX CREDIT INCENTIVES MAY NOT BE SUBMITTED BY THE SAME COMPANY MORE FREQUENTLY THAN ONCE A CALENDAR MONTH.

9. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE COUNCIL SHALL ADOPT RULES AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY FOR THE PURPOSES OF THIS SUBSECTION.

L. EXCEPT FOR APPLICATIONS WITH RESPECT TO COMMERCIAL ADVERTISEMENT AND MUSIC VIDEO PRODUCTION UNDER SUBSECTION K OF THIS SECTION, AFTER OCTOBER 31 OF EACH YEAR, IF THE COUNCIL HAS PREAPPROVED THE MAXIMUM CALENDAR YEAR TAX CREDIT AMOUNT PURSUANT TO SUBSECTION J OF THIS SECTION, THE COUNCIL MAY ACCEPT INITIAL APPLICATIONS FOR THE NEXT CALENDAR YEAR. THE PREAPPROVAL OF ANY APPLICATION PURSUANT TO THIS SUBSECTION SHALL NOT BE EFFECTIVE BEFORE THE FIRST BUSINESS DAY OF THE FOLLOWING CALENDAR YEAR. THE COUNCIL MAY ACCEPT INITIAL APPLICATIONS WITH RESPECT TO COMMERCIAL ADVERTISEMENT AND MUSIC VIDEO PRODUCTION UNDER SUBSECTION K OF THIS SECTION ONLY DURING THE CALENDAR YEAR IN WHICH THE CREDITS WOULD BE ALLOTTED.

M. SUBJECT TO SUBSECTION O OF THIS SECTION, THE COUNCIL SHALL DENY AN APPLICATION SUBMITTED ON COMPLETION OF THE PRODUCTION PURSUANT TO SUBSECTION O OF THIS SECTION IF IT DETERMINES THAT:

1. THE MOTION PICTURE PRODUCTION COMPANY DOES NOT MEET ALL OF THE ESTABLISHED CRITERIA PROVIDED IN SUBSECTION A OF THIS SECTION.

2. THE PRODUCTION WOULD CONSTITUTE AN OBSCENE MOTION PICTURE.

N. ON THE COUNCIL'S DETERMINATION THAT A MOTION PICTURE PRODUCTION COMPANY QUALIFIES FOR MOTION PICTURE PRODUCTION TAX INCENTIVES, THE COUNCIL SHALL ISSUE THE COMPANY A WRITTEN LETTER OF QUALIFICATION AND TRANSMIT A COPY OF THE LETTER TO THE DEPARTMENT OF REVENUE. A LETTER OF QUALIFICATION IS EFFECTIVE FOR TWENTY-FOUR CONSECUTIVE MONTHS AS STATED IN THE LETTER.

O. ON COMPLETION OF THE MOTION PICTURE PRODUCTION, A MOTION PICTURE PRODUCTION COMPANY THAT QUALIFIES FOR THE MOTION PICTURE TAX INCENTIVES SHALL APPLY TO THE COUNCIL IN WRITING FOR APPROVAL OF INCOME TAX CREDITS, SUBMIT A VIEWABLE COPY OF THE MOTION PICTURE, EXCEPT AS PROVIDED IN SUBSECTION P OF THIS SECTION, AND CERTIFY THE TOTAL AMOUNT OF ELIGIBLE PRODUCTION COSTS ASSOCIATED WITH THE PROJECT. THE COUNCIL SHALL PROVIDE APPROVAL TO A MOTION PICTURE PRODUCTION COMPANY THAT IT HAS MET THE ELIGIBILITY REQUIREMENTS OF THIS SECTION AND SHALL NOTIFY THE DEPARTMENT OF REVENUE THAT THE MOTION PICTURE PRODUCTION COMPANY MAY CLAIM THE TAX CREDIT PURSUANT TO SECTION 43-1075 OR 43-1163. IF THE ELIGIBLE PRODUCTION COSTS ACTUALLY SPENT ARE LESS THAN THE AMOUNT PREAPPROVED FOR INCOME TAX CREDITS, THE PREAPPROVED AMOUNT NOT INCURRED LAPSES AND DOES NOT APPLY AGAINST THE DOLLAR LIMIT PRESCRIBED BY SUBSECTION J OF THIS SECTION FOR THAT YEAR.

P. A MOTION PICTURE PRODUCTION COMPANY MAY APPLY FOR POSTAPPROVAL OF THE PRODUCTION UNDER SUBSECTION O OF THIS SECTION BEFORE A VIEWABLE COPY OF THE PRODUCTION IS AVAILABLE. TO DO SO, THE COMPANY MUST SUBMIT WITH ITS

1 APPLICATION A LETTER OF CREDIT, PAYABLE TO THE DEPARTMENT OF REVENUE,
 2 PROVIDING THAT WITHIN TWO BUSINESS DAYS AFTER THE ISSUER RECEIVES A WRITTEN
 3 DETERMINATION FROM THE COUNCIL THAT THE PRODUCTION FAILS TO QUALIFY FOR THE
 4 TAX CREDITS THE ISSUER WILL PAY TO THE DEPARTMENT OF REVENUE THE FULL FACE
 5 VALUE OF THE INCOME TAX CREDITS IN THE APPLICATION. IF THE DEPARTMENT OF
 6 REVENUE DRAWS ON THE LETTER OF CREDIT, THE MONIES SHALL BE TRANSFERRED TO AND
 7 HELD IN AN INTEREST BEARING ACCOUNT PENDING THE FINAL OUTCOME OF AN APPEAL,
 8 IF ANY. THE LETTER OF CREDIT MAY BE RELEASED ON THE DETERMINATION BY THE
 9 COUNCIL THAT THE COMPLETED PRODUCTION QUALIFIES FOR THE TAX CREDITS.

10 Q. IF A PREAPPROVED MOTION PICTURE PRODUCTION COMPANY FAILS TO
 11 UNDERTAKE PRODUCTION, AS DESCRIBED IN SUBSECTION F OF THIS SECTION, AND ALSO
 12 FAILS TO VOLUNTARILY RELINQUISH THE UNUSED CREDIT AMOUNTS FOR REALLOCATION BY
 13 THE COUNCIL AS PROVIDED BY SUBSECTION G OF THIS SECTION WITHIN THE NINETY-DAY
 14 PERIOD, THE COMPANY AND ALL PERSONS SIGNING THE APPLICATION FOR PREAPPROVAL
 15 ARE DISQUALIFIED FROM RECEIVING, OR PARTICIPATING IN ANY MOTION PICTURE
 16 PRODUCTION COMPANY THAT APPLIES FOR OR RECEIVES, TAX INCENTIVES PURSUANT TO
 17 THIS SECTION FOR THREE YEARS AFTER THE ORIGINAL APPLICATION.

18 R. THE COUNCIL SHALL:

19 1. KEEP ANNUAL RECORDS OF THE INFORMATION PROVIDED ON APPLICATIONS FOR
 20 MOTION PICTURE PRODUCTION TAX INCENTIVES. THESE RECORDS SHALL REFLECT A
 21 PERCENTAGE COMPARISON OF THE ANNUAL AMOUNT OF MONIES EXEMPTED OR CREDITED TO
 22 QUALIFYING MOTION PICTURE PRODUCTION COMPANIES TO THE ESTIMATED AMOUNT OF
 23 MONIES SPENT ON IN-STATE PRODUCTION COSTS BY MOTION PICTURE PRODUCTION
 24 COMPANIES.

25 2. MAINTAIN ANNUAL DATA ON GROWTH IN ARIZONA-BASED MOTION PICTURE
 26 INDUSTRY COMPANIES AND MOTION PICTURE INDUSTRY EMPLOYMENT AND WAGES.

27 S. FOR THE PURPOSES OF THIS SECTION:

28 1. "MOTION PICTURE PRODUCTION TAX INCENTIVES" MEANS THE TAX DEDUCTIONS
 29 FOR TRANSACTION PRIVILEGE AND USE TAXES LISTED IN SECTION 42-5009, SUBSECTION
 30 H AND THE CREDIT AGAINST INCOME TAXES PROVIDED UNDER SECTION 43-1075 OR
 31 43-1163.

32 2. "MUSIC VIDEO" MEANS A FILMED OR VIDEOTAPED RENDITION OF A SONG OR
 33 SONGS, PORTRAYING MUSICIANS PERFORMING THE SONG OR OTHER VISUAL IMAGES SET TO
 34 THE LYRICS OF THE SONG.

35 3. "TELEVISION SERIES" MEANS A GROUP OF PRODUCTIONS THAT IS CREATED OR
 36 ADAPTED FOR TELEVISION BROADCAST WITH A COMMON SERIES TITLE, THAT IS RELATED
 37 TO EACH OTHER IN SUBJECT OR THEME, THAT IS PRODUCED SEASONALLY FOR APPEARING
 38 AT SCHEDULED INTERVALS, BUT SUBJECT TO DISCRETIONARY PROGRAMMING AND
 39 SCHEDULING DECISIONS, AND WITH OR WITHOUT A PREDETERMINED NUMBER OF EPISODES.
 40 TELEVISION SERIES INCLUDES A PILOT PRODUCTION FOR THE PROMOTION OR
 41 INTRODUCTION OF A TELEVISION SERIES.

42 41-534. Motion picture infrastructure tax incentives;
 43 definitions

44 A. THROUGH DECEMBER 31, 2025, THE ARIZONA FILM OFFICE ADVISORY COUNCIL
 45 SHALL CERTIFY MOTION PICTURE INFRASTRUCTURE PROJECTS IN THIS STATE FOR THE

1 PURPOSE OF TAX CREDITS UNDER SECTION 43-1075.01 OR 43-1163.01. TO QUALIFY
2 FOR CERTIFICATION:

3 1. A PERSON MUST APPLY TO THE COUNCIL. THE APPLICANT MUST BE THE
4 PERSON WHO WILL OWN AND OPERATE THE INFRASTRUCTURE PROJECT AND MAY BE A
5 MOTION PICTURE PRODUCTION COMPANY. THE APPLICATION MUST INCLUDE:

- 6 (a) THE APPLICANT'S NAME AND CONTACT INFORMATION.
7 (b) A DETAILED DESCRIPTION OF THE PROJECT.
8 (c) A PRELIMINARY BUDGET.
9 (d) AN OUTLINE OF HOW THE PROJECT MEETS THE REQUIREMENTS OF THIS
10 SECTION.
11 (e) THE PROJECTED START AND COMPLETION DATES.
12 (f) THE NAME AND CONTACT INFORMATION FOR THE PRIME CONTRACTOR, IF
13 KNOWN.

14 (g) A COPY OF THE CONSTRUCTION CONTRACT, IF AVAILABLE.
15 (h) AN AFFIRMATION SIGNED BY AN EXECUTIVE REPRESENTING THE APPLICANT
16 THAT:

17 (i) THE APPLICANT AGREES TO FURNISH RECORDS OF EXPENDITURES ON
18 INFRASTRUCTURE PROJECTS IN THIS STATE TO THE COUNCIL ON REQUEST.

19 (ii) ANY ITEMS INCLUDED IN ITS BASE INVESTMENT ARE INTENDED FOR USE BY
20 THE APPLICANT DIRECTLY IN THE INFRASTRUCTURE PROJECT.

21 2. IF THE APPLICATION IS FOR A SOUNDSTAGE, AFTER THE DATE THE COUNCIL
22 APPROVES THE APPLICATION UNDER SUBSECTION B OF THIS SECTION, THE APPLICANT
23 MUST SPEND AT LEAST:

24 (a) TWO HUNDRED FIFTY THOUSAND DOLLARS IN THIS STATE DIRECTLY ON
25 PROJECT EXPENSES WITHIN NINETY DAYS.

26 (b) AN ADDITIONAL ONE MILLION DOLLARS IN THIS STATE DIRECTLY ON
27 PROJECT EXPENSES WITHIN TWELVE MONTHS.

28 (c) A TOTAL OF AT LEAST FIVE MILLION DOLLARS IN THIS STATE DIRECTLY ON
29 PROJECT EXPENSES WITHIN THIRTY-SIX MONTHS.

30 3. IF THE APPLICATION IS FOR SUPPORT AND AUGMENTATION FACILITIES,
31 AFTER THE DATE THE COUNCIL APPROVES THE APPLICATION UNDER SUBSECTION B OF
32 THIS SECTION, THE APPLICANT MUST SPEND AT LEAST:

33 (a) TWO HUNDRED FIFTY THOUSAND DOLLARS IN THIS STATE DIRECTLY ON
34 PROJECT EXPENSES WITHIN NINETY DAYS.

35 (b) A TOTAL OF AT LEAST ONE MILLION DOLLARS IN THIS STATE DIRECTLY ON
36 PROJECT EXPENSES WITHIN THIRTY-SIX MONTHS.

37 B. WITHIN THIRTY DAYS AFTER SUBMISSION, THE COUNCIL SHALL REVIEW EACH
38 COMPLETE APPLICATION TO DETERMINE WHETHER THE APPLICANT SATISFIES ALL OF THE
39 CRITERIA REQUIRED BY THIS SECTION. THE COUNCIL MAY CONDUCT A SITE VISIT AS
40 PART OF THE REVIEW PROCESS. THIS PROCESS SHALL APPROVE AN APPLICANT FOR TAX
41 CREDITS UNDER THIS SECTION BASED ON:

42 1. PRIORITY PLACEMENT FOR CREDITS UNDER THIS SECTION ESTABLISHED BY
43 THE DATE THE APPLICANT FILED ITS INITIAL APPLICATION UNDER SUBSECTION A OF
44 THIS SECTION.

1 2. THE AVAILABILITY OF TAX CREDIT AMOUNTS UNDER THE DOLLAR LIMITS
2 PRESCRIBED BY SUBSECTION C OF THIS SECTION.

3 C. SUBJECT TO THE LIMITS PRESCRIBED IN SECTION 41-533, SUBSECTION J,
4 THE COUNCIL SHALL NOT CERTIFY INCOME TAX CREDITS UNDER THIS SECTION, COMPUTED
5 AS FIFTEEN PER CENT OF THE TOTAL BASE INVESTMENT, EXCEEDING A TOTAL OF FIVE
6 MILLION DOLLARS.

7 D. AFTER OCTOBER 31 OF EACH YEAR, IF THE COUNCIL HAS PREAPPROVED THE
8 MAXIMUM DOLLAR AMOUNT OF INCOME TAX CREDITS UNDER SUBSECTION C OF THIS
9 SECTION FOR THE CALENDAR YEAR, THE COUNCIL MAY ACCEPT INITIAL APPLICATIONS
10 FOR THE NEXT CALENDAR YEAR. THE PREAPPROVAL OF ANY APPLICATION PURSUANT TO
11 THIS SUBSECTION IS NOT EFFECTIVE BEFORE THE FIRST BUSINESS DAY OF THE
12 FOLLOWING CALENDAR YEAR.

13 E. PREAPPROVAL UNDER SUBSECTION B OF THIS SECTION LAPSES, THE
14 APPLICATION IS VOID AND THE AMOUNT OF THE PREAPPROVED INCENTIVES DOES NOT
15 APPLY AGAINST THE DOLLAR LIMIT PRESCRIBED BY SUBSECTION C OF THIS SECTION IF:

16 1. WITHIN NINETY DAYS AFTER THE COUNCIL PREAPPROVES THE APPLICATION,
17 THE APPLICANT FAILS TO PROVIDE DOCUMENTATION OF:

18 (a) ITS EXPENDITURE IN THIS STATE OF THE LESSER OF:

19 (i) TEN PER CENT OF THE ESTIMATED TOTAL BASE INVESTMENT AMOUNT.

20 (ii) TWO HUNDRED FIFTY THOUSAND DOLLARS.

21 (b) A SURETY BOND EQUAL TO THE ESTIMATED TOTAL BASE INVESTMENT AMOUNT
22 FOR WHICH THE APPLICATION WAS PREAPPROVED.

23 2. FOR SOUNDSTAGE PROJECTS, WITHIN ONE YEAR AFTER THE COUNCIL
24 PREAPPROVES THE APPLICATION, THE APPLICANT FAILS TO PROVIDE DOCUMENTATION OF:

25 (a) TOTAL EXPENDITURE IN THIS STATE OF ONE MILLION TWO HUNDRED FIFTY
26 THOUSAND DOLLARS.

27 (b) A SURETY BOND EQUAL TO THE ESTIMATED TOTAL BASE INVESTMENT AMOUNT
28 FOR WHICH THE APPLICATION WAS PREAPPROVED.

29 F. ON COMPLETION OF THE MOTION PICTURE INFRASTRUCTURE PROJECT, AN
30 APPLICANT THAT HAS BEEN PREAPPROVED FOR INCOME TAX CREDITS MUST APPLY TO THE
31 COUNCIL IN WRITING FOR APPROVAL OF THE TOTAL BASE INVESTMENT IN THE PROJECT.
32 IF THE APPLICANT HAS MET THE ELIGIBILITY REQUIREMENTS OF THIS SECTION, THE
33 COUNCIL SHALL:

34 1. APPROVE THE TOTAL BASE INVESTMENT AMOUNT, BUT THE CALCULATED INCOME
35 TAX CREDIT SHALL NOT EXCEED THE PREAPPROVED AMOUNT UNDER THIS SECTION.

36 2. NOTIFY THE DEPARTMENT OF REVENUE THAT THE APPLICANT MAY CLAIM THE
37 INCOME TAX CREDITS PURSUANT TO SECTION 43-1075.01 OR 43-1163.01 IN THE AMOUNT
38 DETERMINED UNDER PARAGRAPH 1 OF THIS SUBSECTION.

39 G. THE COMPANY AND ALL PERSONS SIGNING THE APPLICATION FOR PREAPPROVAL
40 MAY BE DISQUALIFIED FROM RECEIVING FUTURE TAX CREDITS PURSUANT TO THIS
41 SECTION IF, WITHIN EIGHTEEN MONTHS AFTER THE DATE OF POSTAPPROVAL UNDER
42 SUBSECTION F OF THIS SECTION, THE APPLICANT FAILS TO SUBMIT A REPORT TO THE
43 COUNCIL THAT INCLUDES:

44 1. A LIST OF ACTIVITIES AND PRODUCTIONS CONDUCTED AT THE PROJECT IN
45 THE TWELVE MONTHS FOLLOWING POSTAPPROVAL.

1 2. THE AMOUNT OF ANY ADDITIONAL CAPITAL INVESTMENT.
2 3. ANY CHANGES TO OR IMPROVEMENTS MADE TO THE PROJECT SINCE THE DATE
3 OF POSTAPPROVAL.
4 H. WITHIN SIXTY MONTHS AFTER POSTAPPROVAL UNDER SUBSECTION F OF THIS
5 SECTION, IF THE COUNCIL DETERMINES THAT A PERSON THAT RECEIVED A TAX CREDIT
6 PURSUANT TO THIS SECTION FAILED TO COMPLY WITH ANY OF THE REQUIREMENTS
7 PRESCRIBED BY THIS SECTION, THE COUNCIL SHALL TERMINATE, ADJUST OR RECAPTURE
8 ALL OR PART OF THE TAX CREDIT. THE COUNCIL SHALL NOTIFY THE DEPARTMENT OF
9 REVENUE OF THE CONDITIONS OF NONCOMPLIANCE. THE DEPARTMENT OF REVENUE MAY
10 ALSO TERMINATE THE APPROVAL OF THE CREDIT IF IT OBTAINS INFORMATION
11 INDICATING A FAILURE TO QUALIFY AND COMPLY. THE DEPARTMENT OF REVENUE MAY
12 REQUIRE THE PERSON TO:
13 1. FILE APPROPRIATE AMENDED TAX RETURNS REFLECTING THE RECAPTURE OF
14 THE AMOUNT OF THE TAX CREDIT ACTUALLY APPLIED TO REDUCE STATE INCOME TAX
15 LIABILITY.
16 2. PAY A PENALTY OF FOUR AND ONE-HALF PER CENT OF THE AMOUNT OF THE
17 APPLIED CREDIT PER MONTH ELAPSING FROM THE DATE THE PENALTY IS ASSESSED UNTIL
18 IT IS PAID, EXCEPT THAT THE TOTAL PENALTY SHALL NOT EXCEED TWENTY-FIVE PER
19 CENT OF THE FULL AMOUNT OF THE CREDIT.
20 I. THE COUNCIL, WITH THE COOPERATION OF THE DEPARTMENT OF REVENUE,
21 SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY
22 TO EFFECTUATE THE PURPOSES OF THIS SECTION.
23 J. FOR THE PURPOSES OF THIS SECTION:
24 1. "BASE INVESTMENT" MEANS THE BUDGET FOR THE INFRASTRUCTURE PROJECT.
25 2. "MOTION PICTURE INFRASTRUCTURE PROJECT", "INFRASTRUCTURE PROJECT"
26 AND "PROJECT":
27 (a) MEANS SOUNDSTAGES AND SUPPORT AND AUGMENTATION FACILITIES THAT ARE
28 CONSTRUCTED IN THIS STATE AND PRIMARILY USED FOR MOTION PICTURE PRODUCTION.
29 (b) DOES NOT INCLUDE MOTION PICTURE THEATERS AND OTHER COMMERCIAL
30 EXHIBITION FACILITIES.
31 3. "SOUNDSTAGE" MEANS A PERMANENT FACILITY IN THIS STATE OF ONE OR
32 MORE SETS OR STAGES USED PRIMARILY FOR STAGING AND FILMING MOTION PICTURES
33 AND ANY LAND, PERMANENT BUILDINGS OR CAPITAL EQUIPMENT THAT IS IN OR ADJACENT
34 TO, AND IS NECESSARY FOR THE OPERATION OF, A SOUNDSTAGE.
35 4. "SUPPORT AND AUGMENTATION FACILITIES" MEANS PERMANENT FACILITIES IN
36 THIS STATE THAT ARE USED TO COMPLEMENT MOTION PICTURE PRODUCTION NEEDS AND
37 COMPLEMENT THE MOTION PICTURE PRODUCTION.
38 5. "SURETY BOND" MEANS AN EXECUTED WRITTEN CONTRACT, ISSUED BY AN
39 INSURANCE COMPANY WITH AN INSURANCE INDUSTRY RATING OF B+ OR BETTER BY A.M.
40 BEST COMPANY GUARANTYING TO THE FINANCIERS OF THE PROJECT THAT IT WILL BE
41 COMPLETED ACCORDING TO THE TERMS OF THE PREAPPROVED APPLICATION SUBMITTED BY
42 THE PRODUCTION COMPANY IN ITS APPLICATION.
43 41-535. Confidential taxpayer information
44 ANY INFORMATION GATHERED FROM MOTION PICTURE PRODUCTION COMPANIES FOR
45 THE PURPOSES OF SECTION 41-533, OR APPLICANTS FOR INFRASTRUCTURE INCENTIVES

1 FOR THE PURPOSES OF SECTION 41-534, SHALL BE CONSIDERED CONFIDENTIAL TAXPAYER
2 INFORMATION AND SHALL BE DISCLOSED ONLY AS PROVIDED IN SECTION 42-2003,
3 SUBSECTION B, PARAGRAPH 12, EXCEPT THAT THE COUNCIL SHALL PUBLISH THE
4 FOLLOWING INFORMATION IN ITS ANNUAL REPORT:

5 1. THE NAME OF EACH MOTION PICTURE PRODUCTION COMPANY AND
6 INFRASTRUCTURE APPLICANT AND THE AMOUNT OF INCOME TAX CREDITS PREAPPROVED FOR
7 EACH PRODUCTION AND INFRASTRUCTURE PROJECT.

8 2. THE AMOUNT OF CREDITS APPROVED WITH RESPECT TO EACH PRODUCTION.

9 Sec. 3. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
10 amended by adding section 41-3019.01, to read:

11 41-3019.01. Arizona film office advisory council; termination
12 July 1, 2019

13 A. THE ARIZONA FILM OFFICE ADVISORY COUNCIL TERMINATES ON JULY 1,
14 2019.

15 B. TITLE 41, CHAPTER 3, ARTICLE 3 IS REPEALED ON JANUARY 1, 2020.

16 Sec. 4. Section 42-2003, Arizona Revised Statutes, is amended to read:

17 42-2003. Authorized disclosure of confidential information

18 A. Confidential information relating to:

19 1. A taxpayer may be disclosed to the taxpayer, its successor in
20 interest or a designee of the taxpayer who is authorized in writing by the
21 taxpayer. A principal corporate officer of a parent corporation may execute
22 a written authorization for a controlled subsidiary.

23 2. A corporate taxpayer may be disclosed to any principal officer, any
24 person designated by a principal officer or any person designated in a
25 resolution by the corporate board of directors or other similar governing
26 body.

27 3. A partnership may be disclosed to any partner of the partnership.
28 This exception does not include disclosure of confidential information of a
29 particular partner unless otherwise authorized.

30 4. An estate may be disclosed to the personal representative of the
31 estate and to any heir, next of kin or beneficiary under the will of the
32 decedent if the department finds that the heir, next of kin or beneficiary
33 has a material interest which will be affected by the confidential
34 information.

35 5. A trust may be disclosed to the trustee or trustees, jointly or
36 separately, and to the grantor or any beneficiary of the trust if the
37 department finds that the grantor or beneficiary has a material interest
38 which will be affected by the confidential information.

39 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
40 to confidentiality either in writing or on the record in any administrative
41 or judicial proceeding.

42 7. The name and taxpayer identification numbers of persons issued
43 direct payment permits may be publicly disclosed.

44 B. Confidential information may be disclosed to:

1 1. Any employee of the department whose official duties involve tax
2 administration.

3 2. The office of the attorney general solely for its use in
4 preparation for, or in an investigation which may result in, any proceeding
5 involving tax administration before the department or any other agency or
6 board of this state, or before any grand jury or any state or federal court.

7 3. The department of liquor licenses and control for its use in
8 determining whether a spirituous liquor licensee has paid all transaction
9 privilege taxes and affiliated excise taxes incurred as a result of the sale
10 of spirituous liquor, as defined in section 4-101, at the licensed
11 establishment and imposed on the licensed establishments by this state and
12 its political subdivisions.

13 4. Other state tax officials whose official duties require the
14 disclosure for proper tax administration purposes if the information is
15 sought in connection with an investigation or any other proceeding conducted
16 by the official. Any disclosure is limited to information of a taxpayer who
17 is being investigated or who is a party to a proceeding conducted by the
18 official.

19 5. The following agencies, officials and organizations, if they grant
20 substantially similar privileges to the department for the type of
21 information being sought, pursuant to statute and a written agreement between
22 the department and the foreign country, agency, state, Indian tribe or
23 organization:

24 (a) The United States internal revenue service, alcohol and tobacco
25 tax and trade bureau of the United States treasury, United States bureau of
26 alcohol, tobacco, firearms and explosives of the United States department of
27 justice, United States drug enforcement agency and federal bureau of
28 investigation.

29 (b) A state tax official of another state.

30 (c) An organization of states, federation of tax administrators or
31 multistate tax commission that operates an information exchange for tax
32 administration purposes.

33 (d) An agency, official or organization of a foreign country with
34 responsibilities that are comparable to those listed in subdivision (a), (b)
35 or (c) of this paragraph.

36 (e) An agency, official or organization of an Indian tribal government
37 with responsibilities comparable to the responsibilities of the agencies,
38 officials or organizations identified in subdivision (a), (b) or (c) of this
39 paragraph.

40 6. The auditor general, in connection with any audit of the department
41 subject to the restrictions in section 42-2002, subsection D.

42 7. Any person to the extent necessary for effective tax administration
43 in connection with:

44 (a) The processing, storage, transmission, destruction and
45 reproduction of the information.

1 (b) The programming, maintenance, repair, testing and procurement of
2 equipment for purposes of tax administration.

3 8. The office of administrative hearings relating to taxes
4 administered by the department pursuant to section 42-1101, but the
5 department shall not disclose any confidential information:

6 (a) Regarding income tax, withholding tax or estate tax.

7 (b) On any tax issue relating to information associated with the
8 reporting of income tax, withholding tax or estate tax.

9 9. The United States treasury inspector general for tax administration
10 for the purpose of reporting a violation of internal revenue code section
11 7213A (26 United States Code section 7213A), unauthorized inspection of
12 returns or return information.

13 10. The financial management service of the United States treasury
14 department for use in the treasury offset program.

15 11. The United States treasury department or its authorized agent for
16 use in the state income tax levy program and in the electronic federal tax
17 payment system.

18 12. The ~~department of commerce~~ ARIZONA FILM OFFICE ADVISORY COUNCIL for
19 its use in:

20 (a) Qualifying motion picture production companies for the tax
21 incentives provided for motion picture production under chapter 5 of this
22 title and sections 43-1075 and 43-1163.

23 (b) Fulfilling its annual reporting responsibility pursuant to section
24 ~~41-1517, subsections S and T~~ 41-532, SUBSECTION H, SECTION 41-533, SUBSECTION
25 R AND SECTION 41-535.

26 (c) Qualifying applicants for the motion picture infrastructure
27 project tax credits under sections 43-1075.01 and 43-1163.01.

28 13. A prosecutor for purposes of section 32-1164, subsection C.

29 14. The state fire marshal for use in determining compliance with and
30 enforcing title 41, chapter 16, article 3.1.

31 C. Confidential information may be disclosed in any state or federal
32 judicial or administrative proceeding pertaining to tax administration
33 pursuant to the following conditions:

34 1. One or more of the following circumstances must apply:

35 (a) The taxpayer is a party to the proceeding.

36 (b) The proceeding arose out of, or in connection with, determining
37 the taxpayer's civil or criminal liability, or the collection of the
38 taxpayer's civil liability, with respect to any tax imposed under this title
39 or title 43.

40 (c) The treatment of an item reflected on the taxpayer's return is
41 directly related to the resolution of an issue in the proceeding.

42 (d) Return information directly relates to a transactional
43 relationship between a person who is a party to the proceeding and the
44 taxpayer and directly affects the resolution of an issue in the proceeding.

1 2. Confidential information may not be disclosed under this subsection
2 if the disclosure is prohibited by section 42-2002, subsection C or D.

3 D. Identity information may be disclosed for purposes of notifying
4 persons entitled to tax refunds if the department is unable to locate the
5 persons after reasonable effort.

6 E. The department, upon the request of any person, shall provide the
7 names and addresses of bingo licensees as defined in section 5-401, verify
8 whether or not a person has a privilege license and number, a distributor's
9 license and number or a withholding license and number or disclose the
10 information to be posted on the department's web site or otherwise publicly
11 accessible pursuant to section 42-1124, subsection F and section 42-3201,
12 subsection A.

13 F. A department employee, in connection with the official duties
14 relating to any audit, collection activity or civil or criminal
15 investigation, may disclose return information to the extent that disclosure
16 is necessary to obtain information which is not otherwise reasonably
17 available. These official duties include the correct determination of and
18 liability for tax, the amount to be collected or the enforcement of other
19 state tax revenue laws.

20 G. If an organization is exempt from this state's income tax as
21 provided in section 43-1201 for any taxable year, the name and address of the
22 organization and the application filed by the organization upon which the
23 department made its determination for exemption together with any papers
24 submitted in support of the application and any letter or document issued by
25 the department concerning the application are open to public inspection.

26 H. Confidential information relating to transaction privilege tax, use
27 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
28 be disclosed to any county, city or town tax official if the information
29 relates to a taxpayer who is or may be taxable by the county, city or town.
30 Any taxpayer information released by the department to the county, city or
31 town:

32 1. May only be used for internal purposes.

33 2. May not be disclosed to the public in any manner that does not
34 comply with confidentiality standards established by the department. The
35 county, city or town shall agree in writing with the department that any
36 release of confidential information that violates the confidentiality
37 standards adopted by the department will result in the immediate suspension
38 of any rights of the county, city or town to receive taxpayer information
39 under this subsection.

40 I. The department may disclose statistical information gathered from
41 confidential information if it does not disclose confidential information
42 attributable to any one taxpayer. In order to comply with the requirements
43 of section 42-5029, subsection A, paragraph 3, the department may disclose to
44 the state treasurer statistical information gathered from confidential

1 information, even if it discloses confidential information attributable to a
2 taxpayer.

3 J. The department may disclose the aggregate amounts of any tax
4 credit, tax deduction or tax exemption enacted after January 1, 1994.
5 Information subject to disclosure under this subsection shall not be
6 disclosed if a taxpayer demonstrates to the department that such information
7 would give an unfair advantage to competitors.

8 K. Except as provided in section 42-2002, subsection C, confidential
9 information, described in section 42-2001, paragraph 2, subdivision (a), item
10 (iii), may be disclosed to law enforcement agencies for law enforcement
11 purposes.

12 L. The department may provide transaction privilege tax license
13 information to property tax officials in a county for the purpose of
14 identification and verification of the tax status of commercial property.

15 M. The department may provide transaction privilege tax, luxury tax,
16 use tax, property tax and severance tax information to the ombudsman-citizens
17 aide pursuant to title 41, chapter 8, article 5.

18 N. Except as provided in section 42-2002, subsection D, a court may
19 order the department to disclose confidential information pertaining to a
20 party to an action. An order shall be made only upon a showing of good cause
21 and that the party seeking the information has made demand upon the taxpayer
22 for the information.

23 O. This section does not prohibit the disclosure by the department of
24 any information or documents submitted to the department by a bingo licensee.
25 Before disclosing the information the department shall obtain the name and
26 address of the person requesting the information.

27 P. If the department is required or permitted to disclose confidential
28 information, it may charge the person or agency requesting the information
29 for the reasonable cost of its services.

30 Q. Except as provided in section 42-2002, subsection D, the department
31 of revenue shall release confidential information as requested by the
32 department of economic security pursuant to section 42-1122 or 46-291.
33 Information disclosed under this subsection is limited to the same type of
34 information that the United States internal revenue service is authorized to
35 disclose under section 6103(l)(6) of the internal revenue code.

36 R. Except as provided in section 42-2002, subsection D, the department
37 of revenue shall release confidential information as requested by the courts
38 and clerks of the court pursuant to section 42-1122.

39 S. To comply with the requirements of section 42-5031, the department
40 may disclose to the state treasurer, to the county stadium district board of
41 directors and to any city or town tax official that is part of the county
42 stadium district confidential information attributable to a taxpayer's
43 business activity conducted in the county stadium district.

44 T. The department shall release confidential information as requested
45 by the attorney general for purposes of determining compliance with and

1 enforcing section 44-7101, the master settlement agreement referred to
2 therein and subsequent agreements to which the state is a party that amend or
3 implement the master settlement agreement. Information disclosed under this
4 subsection is limited to luxury tax information relating to tobacco
5 manufacturers, distributors, wholesalers and retailers and information
6 collected by the department pursuant to section 44-7101(2)(j).

7 U. For proceedings before the department, the office of administrative
8 hearings, the board of tax appeals or any state or federal court involving
9 penalties that were assessed against a return preparer or electronic return
10 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential
11 information may be disclosed only before the judge or administrative law
12 judge adjudicating the proceeding, the parties to the proceeding and the
13 parties' representatives in the proceeding prior to its introduction into
14 evidence in the proceeding. The confidential information may be introduced
15 as evidence in the proceeding only if the taxpayer's name, the names of any
16 dependents listed on the return, all social security numbers, the taxpayer's
17 address, the taxpayer's signature and any attachments containing any of the
18 foregoing information are redacted and if either:

19 1. The treatment of an item reflected on such return is or may be
20 related to the resolution of an issue in the proceeding.

21 2. Such return or return information relates or may relate to a
22 transactional relationship between a person who is a party to the proceeding
23 and the taxpayer which directly affects the resolution of an issue in the
24 proceeding.

25 V. The department may disclose to the attorney general confidential
26 information received under section 44-7111 and requested by the attorney
27 general for purposes of determining compliance with and enforcing section
28 44-7111. The department and attorney general shall share with each other the
29 information received under section 44-7111, and may share the information
30 with other federal, state or local agencies only for the purposes of
31 enforcement of section 44-7101, section 44-7111 or corresponding laws of
32 other states.

33 Sec. 5. Section 42-5009, Arizona Revised Statutes, is amended to read:

34 42-5009. Certificates establishing deductions; liability for
35 making false certificate

36 A. A person who conducts any business classified under article 2 of
37 this chapter may establish entitlement to the allowable deductions from the
38 tax base of that business by both:

39 1. Marking the invoice for the transaction to indicate that the gross
40 proceeds of sales or gross income derived from the transaction was deducted
41 from the tax base.

42 2. Obtaining a certificate executed by the purchaser indicating the
43 name and address of the purchaser, the precise nature of the business of the
44 purchaser, the purpose for which the purchase was made, the necessary facts
45 to establish the appropriate deduction and the tax license number of the

1 purchaser to the extent the deduction depends on the purchaser conducting
2 business classified under article 2 of this chapter and a certification that
3 the person executing the certificate is authorized to do so on behalf of the
4 purchaser. The certificate may be disregarded if the seller has reason to
5 believe that the information contained in the certificate is not accurate or
6 complete.

7 B. A person who does not comply with subsection A of this section may
8 establish entitlement to the deduction by presenting facts necessary to
9 support the entitlement, but the burden of proof is on that person.

10 C. The department may prescribe a form for the certificate described
11 in subsection A of this section. Under such rules as it may prescribe, the
12 department may also describe transactions with respect to which a person is
13 not entitled to rely solely on the information contained in the certificate
14 provided for in subsection A of this section but must instead obtain such
15 additional information as required by the rules in order to be entitled to
16 the deduction.

17 D. If a seller is entitled to a deduction by complying with subsection
18 A of this section, the department may require the purchaser which caused the
19 execution of the certificate to establish the accuracy and completeness of
20 the information required to be contained in the certificate which would
21 entitle the seller to the deduction. If the purchaser cannot establish the
22 accuracy and completeness of the information, the purchaser is liable in an
23 amount equal to any tax, penalty and interest which the seller would have
24 been required to pay under this article if the seller had not complied with
25 subsection A of this section. Payment of the amount under this subsection
26 exempts the purchaser from liability for any tax imposed under article 4 of
27 this chapter. The amount shall be treated as tax revenues collected from the
28 seller in order to designate the distribution base for purposes of section
29 42-5029.

30 E. If a seller is entitled to a deduction by complying with subsection
31 B of this section, the department may require the purchaser to establish the
32 accuracy and completeness of the information provided to the seller that
33 entitled the seller to the deduction. If the purchaser cannot establish the
34 accuracy and completeness of the information, the purchaser is liable in an
35 amount equal to any tax, penalty and interest that the seller would have been
36 required to pay under this article if the seller had not complied with
37 subsection B of this section. Payment of the amount under this subsection
38 exempts the purchaser from liability for any tax imposed under article 4 of
39 this chapter. The amount shall be treated as tax revenues collected from the
40 seller in order to designate the distribution base for purposes of section
41 42-5029.

42 F. The department may prescribe a form for a certificate used to
43 establish entitlement to the deductions described in section 42-5061,
44 subsection A, paragraph 47 and section 42-5063, subsection B, paragraph 3.
45 Under rules the department may prescribe, the department may also require

1 additional information for the seller to be entitled to the deduction. If a
2 seller is entitled to the deductions described in section 42-5061, subsection
3 A, paragraph 47 and section 42-5063, subsection B, paragraph 3, the
4 department may require the purchaser who executed the certificate to
5 establish the accuracy and completeness of the information contained in the
6 certificate that would entitle the seller to the deduction. If the purchaser
7 cannot establish the accuracy and completeness of the information, the
8 purchaser is liable in an amount equal to any tax, penalty and interest that
9 the seller would have been required to pay under this article. Payment of
10 the amount under this subsection exempts the purchaser from liability for any
11 tax imposed under article 4 of this chapter. The amount shall be treated as
12 tax revenues collected from the seller in order to designate the distribution
13 base for purposes of section 42-5029.

14 G. If a seller claims a deduction under section 42-5061, subsection A,
15 paragraph 25 and establishes entitlement to the deduction with an exemption
16 letter that the purchaser received from the department and the exemption
17 letter was based on a contingent event, the department may require the
18 purchaser that received the exemption letter to establish the satisfaction of
19 the contingent event within a reasonable time. If the purchaser cannot
20 establish the satisfaction of the event, the purchaser is liable in an amount
21 equal to any tax, penalty and interest that the seller would have been
22 required to pay under this article if the seller had not been furnished the
23 exemption letter. Payment of the amount under this subsection exempts the
24 purchaser from liability for any tax imposed under article 4 of this chapter.
25 The amount shall be treated as tax revenues collected from the seller in
26 order to designate the distribution base for purposes of section 42-5029.
27 For the purposes of this subsection, "reasonable time" means a time
28 limitation that the department determines and that does not exceed the time
29 limitations pursuant to section 42-1104.

30 H. From and after December 31, 2005 through December 31, ~~2010~~ 2025,
31 the department shall prescribe a form for a certificate used to establish
32 entitlement to the deductions described in section 42-5061, subsection B,
33 paragraph 23, section 42-5066, subsection B, paragraph 5, section 42-5070,
34 subsection C, paragraph 2, section 42-5074, subsection B, paragraph 10,
35 section 42-5075, subsection B, paragraph 20 and section 42-5159, subsection
36 B, paragraph 23 relating to motion picture production. The certificate is
37 effective for twelve consecutive calendar months from and after the date of
38 issuance and is subject to the following requirements and conditions:

39 1. A motion picture production company as defined in section ~~41-1517~~
40 ~~41-531~~ may use a certificate issued pursuant to this subsection only with
41 respect to production costs described in section ~~41-1517~~ ~~41-533~~, subsection
42 A, paragraph 2 that are subject to taxation under article 2 or 4 of this
43 chapter.

44 2. The department shall issue the certificate to a motion picture
45 production company on receiving the company's letter of qualification from

1 the ~~department of commerce~~ ARIZONA FILM OFFICE ADVISORY COUNCIL, except as
2 otherwise provided in this subsection.

3 3. The department shall not issue a certificate to a motion picture
4 production company that has a delinquent tax balance owing to the department
5 under this title or title 43.

6 4. If the department determines that a motion picture production
7 company no longer qualifies for a certificate or has used the certificate for
8 unauthorized purposes, the department shall revoke the certificate and the
9 motion picture production company is liable for an amount equal to the
10 transaction privilege and use taxes that would have been due on taxable
11 transactions during the time the company did not qualify for or improperly
12 used the certificate, with interest and penalties as provided by law.

13 5. The department shall maintain annual data on the total amount of
14 monies exempted through the use of certificates issued pursuant to this
15 subsection and shall provide those data to the ~~department of commerce~~ ARIZONA
16 FILM OFFICE ADVISORY COUNCIL on request.

17 6. The department of revenue, with the cooperation of the ~~department~~
18 ~~of commerce~~ ARIZONA FILM OFFICE ADVISORY COUNCIL, shall adopt rules and
19 publish and prescribe forms and procedures as necessary to effectuate the
20 purposes of this subsection.

21 7. If, after audit, the department determines that a motion picture
22 production company failed to meet any of the requirements prescribed by this
23 subsection, any deductions from taxation from the use of the certificate are
24 subject to recapture and payment by the motion picture production company to
25 the department.

26 I. The department shall prescribe forms for certificates used to
27 establish the satisfaction of the criteria necessary to qualify the sale of a
28 motor vehicle for the deductions described in section 42-5061, subsection A,
29 paragraph 14, paragraph 28, subdivision (a) and paragraph 45 and
30 subsection U. To establish entitlement to these deductions, a motor vehicle
31 dealer shall retain:

32 1. A valid certificate as prescribed by this subsection completed by
33 the purchaser and obtained prior to the issuance of the nonresident
34 registration permit authorized by section 28-2154.

35 2. A copy of the nonresident registration permit authorized by section
36 28-2154.

37 3. A legible copy of a current valid driver license issued to the
38 purchaser by another state or foreign country that indicates an address
39 outside of this state. For the sale of a motor vehicle to a nonresident
40 entity, the entity's representative must have a current valid driver license
41 issued by the same jurisdiction as that in which the entity is located.

42 4. For the purposes of the deduction provided by section 42-5061,
43 subsection A, paragraph 14, a certificate documenting the delivery of the
44 motor vehicle to an out-of-state location.

J. Notwithstanding subsection A, paragraph 2 of this section, if a motor vehicle dealer has established entitlement to a deduction by complying with subsection I of this section, the department may require the purchaser who executed the certificate to establish the accuracy and completeness of the information contained in the certificate that entitled the motor vehicle dealer to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the motor vehicle dealer would have been required to pay under this article and under articles IV and V of the model city tax code as defined in section 42-6051. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and any tax imposed under article VI of the model city tax code as defined in section 42-6051. The amount shall be treated as tax revenues collected from the motor vehicle dealer in order to designate the distribution base for purposes of section 42-5029.

K. Notwithstanding any other law, compliance with subsection I of this section by a motor vehicle dealer entitles the motor vehicle dealer to the exemption provided in section 42-6004, subsection A, paragraph 4.

Sec. 6. Section 43-1075, Arizona Revised Statutes, is amended to read:

43-1075. Credit for motion picture production costs;
definitions

A. Beginning from and after December 31, 2005 through December 31, ~~2010~~ 2025, a credit is allowed against the taxes imposed by this title for motion picture production costs paid by a motion picture production company in this state that are directly attributable to the production of one or more motion pictures in this state. The amount of the credit is equal to a percentage of the amount of motion picture production costs paid in this state as follows:

| <u>Production costs</u> | <u>Percentage credit</u> |
|-------------------------|--------------------------|
| \$250,000 - \$1,000,000 | 20% |
| More than \$1,000,000 | 30% |

B. The department shall not allow in any year tax credits that exceed the aggregate amount prescribed in section ~~41-1517~~ 41-533.

C. The department shall not allow a credit under this section to a taxpayer who has a delinquent tax balance owing to the department under this title or title 42.

D. To qualify for a credit under this section, the motion picture production company must:

1. Employ residents of this state in production as follows:

(a) In 2006, twenty-five per cent of full-time employees working in this state must be residents of this state.

(b) In 2007, thirty-five per cent of full-time employees working in this state must be residents of this state.

(c) In 2008 ~~and every subsequent taxable year~~, fifty per cent of full-time employees working in this state must be residents of this state.

(d) IN 2009 AND EVERY SUBSEQUENT TAXABLE YEAR, AT LEAST TWENTY-FIVE PER CENT OF FULL-TIME EMPLOYEES WORKING IN THIS STATE MUST BE RESIDENTS OF THIS STATE.

2. Include in the production credits for each commercial motion picture, other than a commercial advertisement or music video, an acknowledgement that the production was filmed in Arizona.

3. Receive preapproval and postapproval from the ~~department of commerce~~ ARIZONA FILM OFFICE ADVISORY COUNCIL pursuant to section ~~41-1517~~ 41-533.

~~E. Beginning with tax credits allocated for 2006 pursuant to section 41-1517, subsection J,~~ A motion picture production company, at its expense, may voluntarily enter into a limited managed audit agreement pursuant to title 42, chapter 2, article 7 that includes an audit of its production costs and other requirements prescribed by section ~~41-1517~~ 41-533 and by this section to confirm the amount of any credit under this section. The request to enter into the audit must be made after the motion picture production company receives postcertification for the credit pursuant to section ~~41-1517~~ 41-533, subsection O. The audit must be conducted by the taxpayer's authorized representative, as defined by section 42-2301, who is an independent certified public accountant licensed in this state. The certified public accountant and the firm the certified public accountant is affiliated with shall not regularly perform services for the motion picture production company or its affiliates. If the director accepts the findings of the audit and issues a notice of determination pursuant to section 42-2303 and the taxpayer timely files its income tax return with the appropriate credit claim forms, the credit amount accepted is not subject to recapture, disallowance, reduction or denial with respect to either the motion picture production company or any subsequent transferee of the credit, and subsection H, paragraph 4 of this section does not apply. The director's notice of determination shall include a written certificate to the taxpayer stating the amount of the credit and that the credit is not subject to recapture from a transferee. This subsection does not prohibit the recapture of a credit from a motion picture production company if the company failed to disclose material information during the audit or falsified its books or records or otherwise engaged in an action that prevented an accurate audit.

F. Co-owners of a motion picture production company, including partners in a partnership, members of a limited liability company and shareholders of an S corporation as defined in section 1361 of the internal revenue code, may allocate the credit allowed under this section among the co-owners on any basis without regard to their proportional ownership interest. The total of the credits allowed all such owners of the motion picture production company may not exceed the amount that would have been allowed for a sole owner of the company.

G. If the allowable tax credit for a taxpayer exceeds the taxes otherwise due under this title on the claimant's income, or if there are no

1 taxes due under this title, the taxpayer may carry the amount of the claim
2 not used to offset the taxes under this title forward for not more than five
3 consecutive taxable years' income tax liability.

4 H. All or part of any unclaimed amount of credit under this section
5 may be sold or otherwise transferred under the following conditions:

6 1. A single sale or transfer may involve one or more transferees, and
7 a transferee may in turn resell or transfer the credit subject to the same
8 conditions of this subsection.

9 2. Both the transferor and transferee must submit a written notice of
10 the transfer to the department within thirty days after the sale or transfer.
11 The transferee's notice shall include a processing fee equal to one per cent
12 of the transferee's tax credit balance or two hundred dollars, whichever is
13 less. The notice shall include:

14 (a) The name of the motion picture production company.

15 (b) The date of the transfer.

16 (c) The amount of the transfer.

17 (d) The transferor's tax credit balance before the transfer and the
18 remaining balance after the transfer.

19 (e) All tax identification numbers for both transferor and transferee.

20 (f) Any other information required by rule.

21 3. A sale or transfer of the credit does not extend the time in which
22 the credit can be used.

23 4. Except as provided by subsection E of this section, if a transferor
24 was not qualified or was disqualified from using the credit at the time of
25 the transfer, the department shall either disallow the credit claimed by a
26 transferee or recapture the credit from the transferee through any authorized
27 collection method. The transferee's recourse is against the transferor.

28 5. In the case of any failure to comply with this subsection, the
29 department shall disallow the tax credit until the taxpayer is in full
30 compliance.

31 I. The department shall maintain annual data on the total amount of
32 monies credited pursuant to this section, and shall provide those data to the
33 ~~department of commerce~~ ARIZONA FILM OFFICE ADVISORY COUNCIL on request.

34 J. The department, with the cooperation of the ~~department of commerce~~
35 ARIZONA FILM OFFICE ADVISORY COUNCIL, shall adopt rules and publish and
36 prescribe forms and procedures as necessary to effectuate the purposes of
37 this section.

38 K. A taxpayer who claims a credit for motion picture costs under this
39 section shall not claim a credit under section 43-1075.01 for the same costs.

40 L. The credit allowed by this section is in lieu of any allowance for
41 state tax purposes of a deduction of those expenses allowed by the internal
42 revenue code.

43 M. For the purposes of this section, "commercial advertisement",
44 "motion picture", "motion picture production company" and "music video" have

the same meanings prescribed ~~in section 41-1517~~ FOR THE PURPOSES OF TITLE 41, CHAPTER 3, ARTICLE 3.

Sec. 7. Section 43-1075.01, Arizona Revised Statutes, is amended to read:

43-1075.01. Credit for motion picture infrastructure projects: definition

A. A credit is allowed against the taxes imposed by this title for investments in motion picture infrastructure projects in this state as provided by section ~~41-1517.01~~ 41-534. The amount of the credit is fifteen per cent of the total base investment in the project during the taxable year as approved and reported by the ~~department of commerce~~ ARIZONA FILM OFFICE ADVISORY COUNCIL pursuant to section ~~41-1517.01~~ 41-534, subsection F. The taxpayer may apply the credit against income taxes for the taxable year in which the motion picture infrastructure project is completed as provided by section ~~41-1517.01~~ 41-534, subsection F.

B. The department shall not allow:

1. Tax credits for any taxable year under this section and section 43-1163.01 that would violate the aggregate limits prescribed by section ~~41-1517.01~~ 41-534, subsection C.

2. A tax credit under this section to a taxpayer who has a delinquent tax balance owing to the department under this title or title 42.

C. An applicant, at its expense, may voluntarily enter into a limited managed audit agreement pursuant to title 42, chapter 2, article 7 that includes an audit of its base investment and other requirements prescribed by section ~~41-1517.01~~ 41-534 and by this section to confirm the amount of any credit under this section. The request to enter into the audit must be made after the applicant receives approval for the credit pursuant to section ~~41-1517.01~~ 41-534, subsection F. The audit must be conducted by the applicant's authorized representative, as defined in section 42-2301, who is an independent certified public accountant licensed in this state. The certified public accountant and the firm the certified public accountant is affiliated with shall not regularly perform services for the taxpayer or its affiliates. If the director accepts the findings of the audit and issues a notice of determination pursuant to section 42-2303 and the taxpayer timely files its income tax return with the appropriate credit claim forms, the credit amount accepted is not subject to recapture, disallowance, reduction or denial with respect to either the taxpayer or any subsequent transferee of the credit, and subsection F, paragraph 4 of this section does not apply. The director's notice of determination shall include a written certificate to the taxpayer stating the amount of the credit and that the credit is not subject to recapture from a transferee. This subsection does not prevent the recapture of a credit if the taxpayer failed to disclose material information during the audit or falsified its books or records or otherwise engaged in an action that prevented an accurate audit.

1 D. Co-owners of a business, including partners in a partnership,
2 members of a limited liability company and shareholders of an S corporation
3 as defined in section 1361 of the internal revenue code, may allocate the
4 credit allowed under this section among the co-owners on any basis without
5 regard to their proportional ownership interest. The total of the credits
6 allowed all such owners may not exceed the amount that would have been
7 allowed for a sole owner of the company.

8 E. If the allowable tax credit for a taxpayer exceeds the taxes
9 otherwise due under this title on the claimant's income, or if there are no
10 taxes due under this title, the taxpayer may carry the amount of the claim
11 not used to offset the taxes under this title forward for not more than five
12 consecutive taxable years' income tax liability.

13 F. All or part of any unclaimed amount of credit under this section
14 may be sold or otherwise transferred under the following conditions:

15 1. A single sale or transfer may involve one or more transferees, and
16 a transferee may in turn resell or transfer the credit subject to the same
17 conditions of this subsection.

18 2. Both the transferor and transferee must submit a written notice of
19 the transfer to the department within thirty days after the sale or transfer.
20 The transferee's notice shall include a processing fee equal to one per cent
21 of the transferee's tax credit balance or two hundred dollars, whichever is
22 less. The notice shall include:

23 (a) The name of the taxpayer.

24 (b) The date of the transfer.

25 (c) The amount of the transfer.

26 (d) The transferor's tax credit balance before the transfer and the
27 remaining balance after the transfer.

28 (e) All tax identification numbers for both transferor and transferee.

29 (f) Any other information required by rule.

30 3. A sale or transfer of the credit does not extend the time in which
31 the credit can be used. The carryforward period of time under subsection E
32 of this section for a credit that is sold or transferred begins on the date
33 the credit was originally earned.

34 4. Except as provided by subsection C of this section, if a transferor
35 was not qualified or was disqualified from using the credit at the time of
36 the transfer, the department shall either disallow the credit claimed by a
37 transferee or recapture the credit from the transferee through any authorized
38 collection method. The transferee's recourse is against the transferor.

39 5. In the case of any failure to comply with this subsection, the
40 department shall disallow the tax credit until the taxpayer is in full
41 compliance.

42 G. The department of revenue shall maintain annual data on the total
43 amount of monies credited pursuant to this section, and shall provide that
44 data to the ~~department of commerce~~ ARIZONA FILM OFFICE ADVISORY COUNCIL on
45 request.

H. The department of revenue, with the cooperation of the ~~department of commerce~~ ARIZONA FILM OFFICE ADVISORY COUNCIL, shall adopt rules and publish and prescribe forms and procedures as necessary to effectuate the purposes of this section.

I. A taxpayer who claims a credit for motion picture infrastructure projects under this section shall not claim a credit under section 43-1075 for the same costs.

J. The credit allowed by this section is in lieu of any allowance for state tax purposes of a deduction of those expenses allowed by the internal revenue code.

K. For the purposes of this section, "motion picture infrastructure project" has the same meaning prescribed in section ~~41-1517.01~~ 41-534.

Sec. 8. Section 43-1163, Arizona Revised Statutes, is amended to read:
43-1163. Credit for motion picture production costs;
definitions

A. Beginning from and after December 31, 2005 through December 31, ~~2010~~ 2025, a credit is allowed against the taxes imposed by this title for motion picture production costs paid by a motion picture production company in this state that are directly attributable to the production of one or more motion pictures in this state. The amount of the credit is equal to a percentage of the amount of motion picture production costs paid in this state as follows:

| <u>Production costs</u> | <u>Percentage credit</u> |
|-------------------------|--------------------------|
| \$250,000 - \$1,000,000 | 20% |
| More than \$1,000,000 | 30% |

B. The department shall not allow in any year tax credits that exceed the aggregate amount prescribed in section ~~41-1517~~ 41-533.

C. The department shall not allow a credit under this section to a taxpayer that has a delinquent tax balance owing to the department under this title or title 42.

D. To qualify for a credit under this section, the motion picture production company must:

1. Employ residents of this state in production as follows:

(a) In 2006, twenty-five per cent of full-time employees working in this state must be residents of this state.

(b) In 2007, thirty-five per cent of full-time employees working in this state must be residents of this state.

(c) In 2008 ~~and every subsequent taxable year~~, fifty per cent of full-time employees working in this state must be residents of this state.

(d) IN 2009 AND EVERY SUBSEQUENT TAXABLE YEAR, AT LEAST TWENTY-FIVE PER CENT OF FULL-TIME EMPLOYEES WORKING IN THIS STATE MUST BE RESIDENTS OF THIS STATE.

2. Include in the production credits for each commercial motion picture, other than a commercial advertisement or music video, an acknowledgement that the production was filmed in Arizona.

1 3. Receive preapproval and postapproval from the ~~department of~~
2 ~~commerce~~ ARIZONA FILM OFFICE ADVISORY COUNCIL pursuant to section ~~41-1517~~
3 ~~41-533~~.

4 E. ~~Beginning with tax credits allocated for 2006 pursuant to section~~
5 ~~41-1517, subsection J,~~ A motion picture production company, at its expense,
6 may voluntarily enter into a limited managed audit agreement pursuant to
7 title 42, chapter 2, article 7 that includes an audit of its production costs
8 and other requirements prescribed by section ~~41-1517~~ 41-533 and by this
9 section to confirm the amount of any credit under this section. The request
10 to enter into the audit must be made after the motion picture production
11 company receives postcertification for the credit pursuant to section ~~41-1517~~
12 ~~41-533~~, subsection O. The audit must be conducted by the taxpayer's
13 authorized representative, as defined by section 42-2301, who is an
14 independent certified public accountant licensed in this state. The
15 certified public accountant and the firm the certified public accountant is
16 affiliated with shall not regularly perform services for the motion picture
17 production company or its affiliates. If the director accepts the findings
18 of the audit and issues a notice of determination pursuant to section 42-2303
19 and the taxpayer timely files its income tax return with the appropriate
20 credit claim forms, the credit amount accepted is not subject to recapture,
21 disallowance, reduction or denial with respect to either the motion picture
22 production company or any subsequent transferee of the credit, and subsection
23 H, paragraph 4 of this section does not apply. The director's notice of
24 determination shall include a written certificate to the taxpayer stating the
25 amount of the credit and that the credit is not subject to recapture from a
26 transferee. This subsection does not prohibit the recapture of a credit from
27 a motion picture production company if the company failed to disclose
28 material information during the audit or falsified its books or records or
29 otherwise engaged in an action that prevented an accurate audit.

30 F. Co-owners of a motion picture production company, including
31 corporate partners in a partnership and members of a limited liability
32 company, may allocate the credit allowed under this section among the
33 co-owners on any basis without regard to their proportional ownership
34 interest. The total of the credits allowed all such owners of the motion
35 picture production company may not exceed the amount that would have been
36 allowed for a sole owner of the company.

37 G. If the allowable tax credit for a taxpayer exceeds the taxes
38 otherwise due under this title on the claimant's income, or if there are no
39 taxes due under this title, the taxpayer may carry the amount of the claim
40 not used to offset the taxes under this title forward for not more than five
41 consecutive taxable years' income tax liability.

42 H. All or part of any unclaimed amount of credit under this section
43 may be sold or otherwise transferred under the following conditions:

1 1. A single sale or transfer may involve one or more transferees, and
2 a transferee may in turn resell or transfer the credit subject to the same
3 conditions of this subsection.

4 2. Both the transferor and transferee must submit a written notice of
5 the transfer to the department within thirty days after the sale or transfer.
6 The transferee's notice shall include a processing fee equal to one per cent
7 of the transferee's tax credit balance or two hundred dollars, whichever is
8 less. The notice shall include:

9 (a) The name of the motion picture production company.

10 (b) The date of the transfer.

11 (c) The amount of the transfer.

12 (d) The transferor's tax credit balance before the transfer and the
13 remaining balance after the transfer.

14 (e) All tax identification numbers for both transferor and transferee.

15 (f) Any other information required by rule.

16 3. A sale or transfer of the credit does not extend the time in which
17 the credit can be used.

18 4. Except as provided by subsection E of this section, if a transferor
19 was not qualified or was disqualified from using the credit at the time of
20 the transfer, the department shall either disallow the credit claimed by a
21 transferee or recapture the credit from the transferee through any authorized
22 collection method. The transferee's recourse is against the transferor.

23 5. In the case of any failure to comply with this subsection, the
24 department shall disallow the tax credit until the taxpayer is in full
25 compliance.

26 I. The department shall maintain annual data on the total amount of
27 monies credited pursuant to this section, and shall provide those data to the
28 ~~department of commerce~~ ARIZONA FILM OFFICE ADVISORY COUNCIL on request.

29 J. The department, with the cooperation of the ~~department of commerce~~
30 ARIZONA FILM OFFICE ADVISORY COUNCIL, shall adopt rules and publish and
31 prescribe forms and procedures as necessary to effectuate the purposes of
32 this section.

33 K. A taxpayer that claims a credit for motion picture costs under this
34 section shall not claim a credit under section 43-1163.01 for the same costs.

35 L. The credit allowed by this section is in lieu of any allowance for
36 state tax purposes of a deduction of those expenses allowed by the internal
37 revenue code.

38 M. For the purposes of this section, "commercial advertisement",
39 "motion picture", "motion picture production company" and "music video" have
40 the same meanings prescribed ~~in section 41-1517~~ FOR THE PURPOSES OF TITLE 41,
41 CHAPTER 3, ARTICLE 3.

1 Sec. 9. Section 43-1163.01, Arizona Revised Statutes, is amended to
2 read:

3 43-1163.01. Credit for motion picture infrastructure projects:
4 definition

5 A. A credit is allowed against the taxes imposed by this title for
6 investments in motion picture infrastructure projects in this state as
7 provided by section ~~41-1517.01~~ 41-534. The amount of the credit is fifteen
8 per cent of the total base investment in the project during the taxable year
9 as approved and reported by the ~~department of commerce~~ ARIZONA FILM OFFICE
10 ADVISORY COUNCIL pursuant to section ~~41-1517.01~~ 41-534, subsection F. The
11 taxpayer may apply the credit against income taxes for the taxable year in
12 which the motion picture infrastructure project is completed as provided by
13 section ~~41-1517.01~~ 41-534, subsection F.

14 B. The department shall not allow:

15 1. Tax credits for any taxable year under this section and section
16 43-1075.01 that would violate the aggregate limits prescribed by section
17 ~~41-1517.01~~ 41-534, subsection C.

18 2. A tax credit under this section to a taxpayer that has a delinquent
19 tax balance owing to the department under this title or title 42.

20 C. An applicant, at its expense, may voluntarily enter into a limited
21 managed audit agreement pursuant to title 42, chapter 2, article 7 that
22 includes an audit of its base investment and other requirements prescribed by
23 section ~~41-1517.01~~ 41-534 and by this section to confirm the amount of any
24 credit under this section. The request to enter into the audit must be made
25 after the applicant receives approval for the credit pursuant to section
26 ~~41-1517.01~~ 41-534, subsection F. The audit must be conducted by the
27 applicant's authorized representative, as defined in section 42-2301, who is
28 an independent certified public accountant licensed in this state. The
29 certified public accountant and the firm the certified public accountant is
30 affiliated with shall not regularly perform services for the taxpayer or its
31 affiliates. If the director accepts the findings of the audit and issues a
32 notice of determination pursuant to section 42-2303 and the taxpayer timely
33 files its income tax return with the appropriate credit claim forms, the
34 credit amount accepted is not subject to recapture, disallowance, reduction
35 or denial with respect to either the taxpayer or any subsequent transferee of
36 the credit, and subsection F, paragraph 4 of this section does not apply.
37 The director's notice of determination shall include a written certificate to
38 the taxpayer stating the amount of the credit and that the credit is not
39 subject to recapture from a transferee. This subsection does not prevent the
40 recapture of a credit if the taxpayer failed to disclose material information
41 during the audit or falsified its books or records or otherwise engaged in an
42 action that prevented an accurate audit.

43 D. Co-owners of a business, including corporate partners in a
44 partnership and members of a limited liability company, may allocate the
45 credit allowed under this section among the co-owners on any basis without

1 regard to their proportional ownership interest. The total of the credits
2 allowed all such owners may not exceed the amount that would have been
3 allowed for a sole owner of the company.

4 E. If the allowable tax credit for a taxpayer exceeds the taxes
5 otherwise due under this title on the claimant's income, or if there are no
6 taxes due under this title, the taxpayer may carry the amount of the claim
7 not used to offset the taxes under this title forward for not more than five
8 consecutive taxable years' income tax liability.

9 F. All or part of any unclaimed amount of credit under this section
10 may be sold or otherwise transferred under the following conditions:

11 1. A single sale or transfer may involve one or more transferees, and
12 a transferee may in turn resell or transfer the credit subject to the same
13 conditions of this subsection.

14 2. Both the transferor and transferee must submit a written notice of
15 the transfer to the department within thirty days after the sale or transfer.
16 The transferee's notice shall include a processing fee equal to one per cent
17 of the transferee's tax credit balance or two hundred dollars, whichever is
18 less. The notice shall include:

19 (a) The name of the taxpayer.

20 (b) The date of the transfer.

21 (c) The amount of the transfer.

22 (d) The transferor's tax credit balance before the transfer and the
23 remaining balance after the transfer.

24 (e) All tax identification numbers for both transferor and transferee.

25 (f) Any other information required by rule.

26 3. A sale or transfer of the credit does not extend the time in which
27 the credit can be used. The carryforward period of time under subsection E
28 of this section for a credit that is sold or transferred begins on the date
29 the credit was originally earned.

30 4. Except as provided by subsection C of this section, if a transferor
31 was not qualified or was disqualified from using the credit at the time of
32 the transfer, the department shall either disallow the credit claimed by a
33 transferee or recapture the credit from the transferee through any authorized
34 collection method. The transferee's recourse is against the transferor.

35 5. In the case of any failure to comply with this subsection, the
36 department shall disallow the tax credit until the taxpayer is in full
37 compliance.

38 G. The department of revenue shall maintain annual data on the total
39 amount of monies credited pursuant to this section, and shall provide that
40 data to the ~~department of commerce~~ ARIZONA FILM OFFICE ADVISORY COUNCIL on
41 request.

42 H. The department of revenue, with the cooperation of the ~~department~~
43 ~~of commerce~~ ARIZONA FILM OFFICE ADVISORY COUNCIL, shall adopt rules and
44 publish and prescribe forms and procedures as necessary to effectuate the
45 purposes of this section.

1 I. A taxpayer that claims a credit for motion picture infrastructure
2 projects under this section shall not claim a credit under section 43-1163
3 for the same costs.

4 J. The credit allowed by this section is in lieu of any allowance for
5 state tax purposes of a deduction of those expenses allowed by the internal
6 revenue code.

7 K. For the purposes of this section, "motion picture infrastructure
8 project" has the same meaning prescribed in section ~~41-1517.01~~ 41-534.

9 Sec. 10. Succession

10 A. As provided by this act the Arizona film office advisory council
11 succeeds to the authority, powers, duties and responsibilities of the
12 department of commerce relating to motion picture production and
13 infrastructure tax incentives.

14 B. This act does not alter the effect of any action or impair the
15 valid obligations of the department of commerce taken before the effective
16 date of this act.

17 C. Administrative rules and orders adopted by the department of
18 commerce relating to motion picture production and infrastructure tax
19 incentives continue in effect until superseded by administrative action by
20 the Arizona film office advisory council.

21 D. All administrative matters, contracts and preapproval and
22 postapproval determinations, whether completed, pending or in process, of the
23 department of commerce relating to motion picture production and
24 infrastructure tax incentives on the effective date of the act are
25 transferred to and retain the same status with the Arizona film office
26 advisory council.

27 E. All records, data and findings and all appropriated monies that
28 remain unexpended and unencumbered on the effective date of this act of the
29 department of commerce relating to motion picture production and
30 infrastructure tax incentives are transferred to the Arizona film office
31 advisory council.

32 F. All personnel who are under the state personnel system and employed
33 by the department of commerce relating to motion picture production and
34 infrastructure tax incentives are transferred to comparable positions and pay
35 classification in the Arizona film office advisory council on the effective
36 date of this act.

37 Sec. 11. Purpose

38 Pursuant to section 41-2955, subsection E, Arizona Revised Statutes,
39 the purpose of the Arizona film office advisory council is to promote motion
40 picture production activity in this state and to receive and evaluate
41 applications for motion picture tax incentives.

42 Sec. 12. Retroactivity

43 This act is effective from and after December 31, 2009 but applies
44 retroactively to taxable years beginning from and after December 31, 2008.